

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

ROBERT H. WOLCOFF and HEATHER )  
WOLCOFF, )

Plaintiffs,

VS. )

**UNITED STATES OF AMERICA,**

Defendant.)

Case No. CI

## **COMPLAINT**

## INTRODUCTION

1. In 2005, Robert Wolcoff (“Mr. Wolcoff”) sought care for back pain at the Alaska Native Medical Center, an agent of the United States of America. Mr. Wolcoff received numerous back surgeries which were complicated by infection and required additional surgeries.

The care Mr. Wolcoff received at the Alaska Native Medical Center fell below the relevant medical standard of care and constitutes medical malpractice. Mr. Wolcoff and his wife Heather (“Mrs. Wolcoff”) were both harmed by the care Mr. Wolcoff received.

#### JURISDICTION AND VENUE

2. Plaintiffs hereby reallege the allegations contained in paragraph 1 of this Complaint as though fully set forth herein.

3. This action against the United States of America arises under the Federal Tort Claims Act, 28 U.S.C. §§ 2671, et seq.

4. Plaintiffs timely filed Tort Claims Act administrative claims to the United States Department of Health and Human Services. The United States did not respond to the administrative claims within six months, so the claims are deemed denied. All conditions precedent to a Federal Tort Claims Act action have been met.

5. This Court has jurisdiction under, and by virtue of, 28 U.S.C. § 1346(b).

6.       Venue is founded in this judicial district based on 28 U.S.C. §§ 1391(e) and 1402(b), as the acts complained of occurred in this district.

## PARTIES

7. Plaintiffs hereby reallege the allegations contained in paragraphs 1 through 6 of this Complaint as though fully set forth herein.

8. Plaintiff, Robert Wolcoff, is a United States citizen and resident of the state of Alaska.

9. Plaintiff, Heather Wolcoff, is a United States citizen and resident of the state of Alaska.

10. Defendant, the United States of America, has waived sovereign immunity, pursuant to the Federal Tort Claims Act.

## FACTS

11. Plaintiffs hereby reallege the allegations contained in paragraphs 1 through  
10 of this Complaint as though fully set forth herein.

1           12. In 2005, Robert Wolcoff was experiencing pain in his back, hip, and leg.  
2  
3 Mr. Wolcoff was subsequently diagnosed with a disc herniation and underwent his first  
4 back surgery at Alaska Native Medical Center on June 22, 2005.

5           13. In total, Mr. Wolcoff underwent five separate surgical procedures at Alaska  
6 Native Medical Center. The first procedure, referenced above, was a lumbar surgery that  
7 involved a foraminal decompression and laminectomy. There was little improvement in  
8 Mr. Wolcoff's symptoms and two repeat lumbar surgeries were performed by a different  
9 surgeon.

10          14. During the course of those repeat surgeries, Mr. Wolcoff's post-operative  
11 wound became infected. Two additional surgeries were then necessary to drain and  
12 debride the post-operative wound. Several months later a spinal cord stimulator was  
13 placed to assist with pain control.  
14

15          15. The first surgical procedure was inadequate, which led to the necessity for  
16 the second surgical procedure. Further surgical procedures and an infection followed. In  
17 addition, Mr. Wolcoff was a poor candidate for surgery but there was little conservative  
18 treatment prior to proceeding with surgery.  
19

20          16. As a result of the inadequate and prolonged course of treatment Mr. Wolcoff  
21 received from Alaska Native Medical Center, both he and his wife have suffered  
22 economic and non-economic damages, including pain, suffering, loss of enjoyment of  
23 life, emotional distress, and loss of consortium.  
24  
25

## **CAUSES OF ACTION**

17. Plaintiffs hereby reallege the allegations contained in paragraphs 1 through 16 of this Complaint as though fully set forth herein.

18. This claim is brought by Plaintiffs against Defendant, the United States of America, for actions taken by the staff at the Alaska Native Medical Center, all acting within the scope of their employment.

19. The care Mr. Wolcoff received was below the applicable professional medical standard of care.

20. As a result of the inadequate care Mr. Wolcoff received, he suffered both economic and non-economic damages.

21. As a result of the inadequate care Mr. Wolcoff received, Mrs. Wolcoff suffered both economic and non-economic damages.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for relief as follows:

1. For a judgment against Defendant in an amount of Two Million Ninety-Four Thousand Four Hundred Thirty-One Dollars (\$2,094,431) as to Mr. Wolcoff;

2. For a judgment against Defendant in an amount of Four Hundred Thousand Dollars (\$400,000) as to Mrs. Wolcoff;

3. For an award, to the extent allowed under applicable law, of Plaintiffs' attorneys' fees and costs in prosecuting this action;

4. For pre- and post-judgment interest; and

5. For such other and further relief as the Court deems just and reasonable.

DATED at Anchorage, Alaska this 27<sup>th</sup> day of February 2008.

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